

Warne, Kea

From: Jason Hancock <Jason.Hancock@sdlegislature.gov>
Sent: Thursday, November 1, 2018 10:09 AM
To: Krebs, Shantel
Cc: Warne, Kea
Subject: [EXT] Cannabis IM
Attachments: Cannabis (2020) - Corrected.pdf

Secretary Krebs,

The Attorney General's office alerted us to an error in a couple of cross-references in the edits we suggested for Mr. Dale's initiated measure dealing with cannabis. We have made the corrections and shared them with Mr. Dale, who said he had not yet finalized his language. In order to ensure that what is displayed in the public record is correct, would you be willing to replace on your website the language we sent you earlier with the attached language?

Thank you for your assistance.

Jason

*Jason Hancock
Director
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S.D. SEC. OF STATE

Be it enacted by the people of South Dakota:

~~An Act to provide certain provisions regarding the legalization of cannabis, to take effect immediately upon passage.~~

Section 1. That the code be amended by adding a NEW SECTION to read:

As used in this Act, cannabis means ~~all parts~~ any part of the plant genus ~~Cannabis~~ Cannabis spp containing one or more of the cannabinoids tetrahydrocannabinol (THC), cannabidiol (CBD), and cannabigerol (CBG), whether growing or not, whether living or not, whether in vegetative or flowering stages, ~~cannabis accessories, cannabis growing implements, means of processing cannabis, means of transporting cannabis, means of reselling cannabis,~~ and cannabis seeds.

Section 2. That the code be amended by adding a NEW SECTION to read:

No law enforcement agency in the state ~~or nor~~ any agent of the state may enforce any federal ~~cannabis~~ law regarding cannabis.

Section 3. That the code be amended by adding a NEW SECTION to read:

A person's right to keep and bear arms may not be infringed for possessing cannabis in accordance with the provisions of this Act.

Section 4. That the code be amended by adding a NEW SECTION to read:

No charge may be brought under chapter 32-23 for consumed ~~Cannabis-cannabis~~ metabolites. No law enforcement agency in the state ~~or~~ nor any agent of the state may keep any record, whether written, electronic, digital, or otherwise, based on a finding that cannabis plant matter or its metabolites are found on a person's body or breath or in the person's possession.

Section 5. That the code be amended by adding a NEW SECTION to read:

Any person under twenty-one years of age who is working in the agriculture industry with a letter from the person's employer describing the legal duties performed by the ~~underage~~ person may handle cannabis products having greater than three percent tetrahydrocannabinol.

Section 6. That the code be amended by adding a NEW SECTION to read:

Any person under age twenty-one who possesses a doctor's recommendation describing the person's medical condition that requires cannabis as medication may possess and ingest cannabis having greater than three percent tetrahydrocannabinol.

Section 7. That the code be amended by adding a NEW SECTION to read:

Any person under age twenty-one ~~in possession of~~ who possesses cannabis plant material containing greater than three percent

tetrahydrocannabinol without an employer letter ~~and without~~ under section 5 of this Act or a doctor's recommendation ~~pursuant to this section under section 6 of this Act~~ is subject to a penalty of ten hours of community service for each offense, not to exceed one hundred hours in any calendar year, and shall surrender the plant material to a law enforcement ~~agents of agency in~~ the state.

Section 8. That the code be amended by adding a NEW SECTION to read:

The cannabis plant material surrendered under section 7 of this Act shall be tested by agents of the state in accordance with ~~ISO/IEC 17025:2005~~ standards deemed ~~applicable~~ appropriate by the South Dakota Department of Agriculture, ~~and~~ The secretary of agriculture shall promulgate rules pursuant to chapter 1-26 to establish and implement the standards under this section. The standards shall be in accordance with the general requirements for the competence of testing as published by the International Organization for Standardization under ISO/IEC 17025:2005. The plant material tested under this section shall be catalogued without retaining or associating any personally identifying information about the person from whom the plant material was obtained. Any cannabis plant material that is confiscated under this section shall be destroyed after testing. At least once per year the ~~state department~~ shall issue a report disclosing test results and overall weight of confiscated cannabis.

Section 9. That the code be amended by adding a NEW SECTION to read:

Any person who sells or distributes ~~Cannabis~~cannabis to any other person under age twenty-one who does not have a doctor's recommendation under section 6 of this Act shall be subject to ~~400 one~~hundred hours of community service for each offense, not to exceed ~~200 two hundred~~ hours in any calendar year, after which the ~~offender person~~ shall pay a one thousand dollar fine per offense.

Section 10. That the code be amended by adding a NEW SECTION to read:

~~Any person under age twenty-one who is found to be in possession of cannabis containing more than three percent tetrahydrocannabinol shall display a doctor's recommendation or an employee permission letter that verifies the person's cannabis possession privileges.~~ If a person cannot display the documentation required under ~~this~~ section 5 of this Act or section 6 of this Act to an official at the time of cannabis possession, the person may display the documentation to a court of competent jurisdiction within thirty days of the offense to avoid prosecution ~~in accordance with the provisions under section 7~~ of this Act.

Section ~~611~~. That the code be amended by adding a NEW SECTION to read:

The ~~South Dakota Department of Agriculture~~secretary of agriculture shall promulgate rules pursuant to chapter 1-26 regarding the

manufacture, sale, and transport of cannabis in the state ~~in accordance~~
consistent with the provisions of this Act.

Section 712. That the code be amended by adding a NEW SECTION to read:

Any revenue generated from licensure fees under this Act ~~that is~~ in excess of the amount required to implement ~~any provision~~ the provisions of this Act shall be ~~granted~~ awarded by grant to South Dakota small farmers. The grants shall be ~~used~~ awarded to support early-stage, high-risk local agriculture new venture, research, and development. The grants ~~shall may~~ only be awarded to proof of concept projects that are already completed, ~~taking into account~~ using the ratio of investment-level-to-value of the expressed entrepreneurial idea as a key criterion for the award. The secretary of agriculture shall promulgate by rule pursuant to chapter 1-26 the criteria for any grant under this section.

Section 813. That the code be amended by adding a NEW SECTION to read:

No court may determine parental suitability based on the parent's use or possession of cannabis when deciding a child custody case under chapter 25-4A.

Section 914. That the code be amended by adding a NEW SECTION to read:

No locality may pass any ~~law, ordinance, or regulation~~ that restricts

or ~~controls~~ provides for the location of operation of a cannabis-related business. No locality may tax, ~~regulate, control,~~ or pass any ~~law or regulation ordinance~~ governing the use or consumption of cannabis. No locality may enact any zoning requirement that is discriminatory to a cannabis-related business. A locality may require a standard business license to conduct cannabis sales within the ~~locality's jurisdiction~~ locality. No locality may ban home cultivation or any other cultivation of cannabis.

Section ~~40~~15. That the code be amended by adding a NEW SECTION to read:

Nothing in this Act ~~may be interpreted to grant grants~~ the right of an employee to use cannabis while at a workplace, nor ~~to remove limits~~ the right of employers to enact workplace policies that restrict or prohibit the use of cannabis in the workplace. Nothing in this Act may ~~be interpreted to prohibit prohibits~~ a landowner from restricting or prohibiting the use of cannabis on the landowner's private property.

Section ~~44~~16. That the code be amended by adding a NEW SECTION to read:

~~No legacy provisions in South Dakota codified law may be interpreted to supercede the provisions of this Act.~~ No ~~state~~ law enforcement agency in the state ~~or nor~~ any agent of the state ~~shall~~ may enforce ~~provisions of south dakota code pertaining to cannabis not specified under the provisions of this Act~~ any law regarding cannabis other

than as provided in this Act.